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EXAMINER
VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
2424	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/896,733	BOWERS, J. ROB
	Examiner	Art Unit	
	MICHAEL VAN HANDEL	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>31 July 2008</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,2 and 5-10</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1, 2, 5-10</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 7/31/2008 has been entered.

Response to Amendment

1.   This action is responsive to an Amendment filed 7/31/2008. Claims **1**, **2**, **5-10** are

pending. Claim **1** is amended. Claims **3**, **4**, **11-54** are canceled. The examiner hereby withdraws

the objection to claim **1** in light of the amendment.

Response to Arguments

1.   Applicant's arguments regarding claim **1**, filed 7/31/2008, have been fully considered,

but they are not persuasive.

        Regarding claim **1**, the applicant argues that the prior art fails to teach or suggest that that

each request comprises a unique identifier identifying the particular one of the plurality of

receivers making the request. The examiner respectfully disagrees. Suzuki discloses that, in

response to a request from a terminal 11, an access to requested multimedia data stored in a

multimedia data storage device 1 is made, and the requested multimedia data is taken in buffers

22 of the input/output unit 2 to which the requesting terminal 11 is connected (col. 5, l. 39-44).

When requests for the same data J are issued from the terminals 11-A and 11-B almost

simultaneously, i.e., within a prescribed period of time, the buffers 22-A and 22-B connected

with these terminals send access requests with respect to the data J to the data Management unit

4. Here the request re-construction unit 42 of the data management unit 4 has a function to

combine the requests for the same data received within each unit time period, so that the requests

sent from the buffers 22-A and 22-B are combined into a single unified requests as they are for

requests for the same data received within the same unit time period. At the data management

unit 4, it can be judged that the data J requested by this single unified request is stored in the

multimedia data storage device 1-X according to the data management table 41, so that the data J

is transferred from the multimedia data storage device 1-X to both of the buffers 22-A and 22-B

simultaneously, by means of a single access. At this point, the buffers 22-A and 22-B are

registered as the buffers storing the data J in the data management table 41 (col. 18, l. 26-49).

That is, each of the requests from buffers 22-A and 22-B corresponding to requests from

terminals 11-A and 11-B, respectively, identifies the particular receiver and corresponding

receiver buffer making the request. If this were not the case, data management unit would not

know which of the buffers to transmit the data to. Suzuki further states that one buffer 22 may

be provided in correspondence to one terminal (col. 18, l. 50-52). The examiner notes that a

request identifying this buffer would further "identify" the particular one of the plurality of

receivers. As such, the examiner interprets the function of the data management unit to receive

multiple requests and combine them into a single request for data as meeting the limitation of an

"aggregation module storing a list comprising each of the unique identifiers identifying each of

the plurality of receivers from which a request has been received," as currently claimed. Suzuki

further notes that buffers 22-A and 22-B are then registered as the buffers storing the data J in the

data management table 41 (col. 18, l. 40-49 & Figs. 11-15, 17, 18).

Suzuki further discloses that an embodiment where the system is distributed using a

configuration of parallel processors PE0 to PE8. Each processing unit comprises a router for

making communications with the other processing elements. When a terminal T0 issues a

request for video data V stored in magnetic disk M0, the processing element PE1 connected with

this terminal T0 inquires the processing element PE2 (data management unit) about a stored

position of the video data V. In response, the processing element PE2 informs the magnetic disk

M0 of the processing element PE0 as the stored position of the video data V to the processing

element PE1. As a result, the processing element PE1 can learn that the video data V is stored in

the magnetic disk M0, so that the video data V is copied from the magnetic disk M0 of the

processing element PE0 to the memory of the processing element PE1. The video data V stored

in the memory of the processing element PE1 is then transferred to the terminal T0 via the

input/output unit of the processing element PE1 (col. 23, l. 17-24, 62-67; col. 24, l. 1-15; & Fig.

24). In this case, it is also possible to add a function for reconstructing a number of requests for

the same multimedia data into a single unified request to the processing elements (col. 24, l. 19-

23 & Figs. 23, 24). The examiner notes that addresses of the processing units must be stored by

the reconstruction unit in order to correctly route the data back to the appropriate terminals via

the routers. This also meets the limitation of an "aggregation module storing a list comprising

each of the unique identifiers identifying each of the plurality of receivers from which a request

has been received," as currently claimed.

Further regarding claim **1**, the applicant argues that the prior art fails to teach each

request comprising access rights associated with the particular one of the plurality of receivers

making the request. The applicant further argues that the prior art fails to teach or suggest that

the aggregation module compares the access rights received in the request and associated with

the particular one of the plurality of receivers making the request with access and security

information stored within a database. The examiner respectfully disagrees. The applicant

specifically argues that the teachings of McClain et al. only suggest that access rules are applied,

but fails to teach or suggest that the access rights are contained within the received request.

As noted in the Office Action below, Suzuki does not specifically disclose that each

request comprise access rights associated with the particular one of the plurality of receivers

making the request. Suzuki further does not specifically disclose that the aggregation module

compares the access rights received in each request and associated with the particular one of the

plurality of receivers making the request with access and security information stored within a

database. McClain et al. discloses a system and method for filtering web-based content by

vending it to the client only if the client meets predefined user policies (Abstract). The clients

use unique user names to communicate with a proxy cache server (col. 2, l. 13-24, 61-63).

Content is categorized according to a variety of rating schemes into content that is or is not

appropriate for specific users (col. 4, l. 52-55). As such, the examiner interprets the user name

associated with the request to be "access rights associated with the particular one of the plurality

of receivers making the request," since the user name determines whether the user has access to

requested content. McClain et al. discloses that the ratings are applied to the specific users based

upon predefined user policies associated with the unique user name (col. 2, l. 61-63). Based

upon these preset user policies, a filter either allows return of requested content to the client, or

returns a message denying access to the user (col. 6, l. 40-45 & col. 9, l. 52-56). The examiner

interprets associating the user name of the communication with the present user policies to

determine access to requested content as "comparing the access rights received in each request

and associated with the particular one of the plurality of receivers making the request with access

and security information stored within a database." As such, the examiner maintains that

McClain et al. suitably remedies the deficiencies of Suzuki, and that it further would have been

obvious to one of ordinary skill in the art at the time that the invention was made to modify

Suzuki to include receiving a unique user name and a request for content, comparing the user

name and content request with a set of content rules for the user, and determining whether to

allow or deny access to the content, such as that taught by McClain et al. in order to ensure that a

particular client can only access information that is authorized (McClain et al. col. 2, l. 36-39).

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

        Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
        any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
        requirements of this title.

2.   Claim **10** is rejected under 35 U.S.C. 101, because the claimed invention is directed to

non-statutory subject matter. The examiner notes that programs constitute functional descriptive

material; however, functional descriptive material is nonstatutory when claimed as descriptive

material *per se*. The examiner further notes that the claim recites a computer-readable storage

medium carrying computer-executable instructions; however the specification defines that the

medium can be a communications connection to a computer, either hardwired, wireless, or a

combination of hardwired or wireless (p. 16, lines 3-10). The examiner notes that a claim

directed to a signal *per se* does not appear to be a process, machine, manufacture, or composition

of matter. See **MPEP 2106.01** for guidance.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims **1**, **2**, **6**, and **10** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Suzuki in view of McClain et al (of record).

Referring to claims **1** and **10**, Suzuki discloses a method/computer program product for

providing real-time streaming media from a wide area network to a plurality of receivers in a

system having a plurality of receivers and at least one aggregation module; the method

comprising the following acts:

   (a) receiving by at least one aggregation module one or more requests for real-time streaming

   media accessible via a wide area network, each of the one or more requests being received

   from one of the plurality of receivers, each request comprising a unique identifier identifying

   the particular one of the plurality of receivers making the request, and the aggregation

   module storing a list comprising each of the unique identifiers identifying each of the

plurality of receivers from which a request has been received (col. 5, l. 39-44; col. 18, l. 26-67; col. 23, l. 3-43, 62-67; col. 24, l. 1-15, 19-23; & Figs. 11-15, 17, 18, 20, 24, 25);

(b) after act (a), the at least one aggregation module determining whether the number of requests received is greater than a defined maximum number of requests that maintains a connection rate of a shared network at a preferred level (col. 18, l. 26-31), aggregating a plurality of requests into a single request for a single copy of the real-time streaming media (col. 18, l. 50-67 & col. 19, l. 1-3), and sending the single request for a single copy of the real-time streaming media to the wide area network (the examiner notes that a single unified request is issued to server 20 and the data N is transferred to server 10. The examiner interprets this to be a single request for a single copy of the media)(col. 19, l. 3-8 & Fig. 20);

(c) after acts (b), buffering the single copy of the real-time streaming media at the at least one aggregation module (col. 18, l. 53-58 & col. 19, l. 8-14);

(d) using the buffered single copy of the real-time streaming media, delivering the streaming media to the plurality of receivers (col. 18, l. 1-9, 53-58); and

(e) the aggregation module tracking the activities of the receivers and identifying frequently requested real-time streaming or continuous media (col. 2, l. 31-39; col. 6, l. 19-34; & col. 18, l. 10-16).

Suzuki does not specifically disclose that each request comprise access rights associated with the particular one of the plurality of receivers making the request. Suzuki further does not specifically disclose that the aggregation module compares the access rights received in each request and associated with the particular one of the plurality of receivers making the request

with access and security information stored within a database. McClain et al. discloses a system

and method for filtering web-based content by vending it to the client only if the client meets

predefined user policies (Abstract). The clients use unique user names to communicate with a

proxy cache server (col. 2, l. 13-24, 61-63). Content is categorized according to a variety of

rating schemes into content that is or is not appropriate for specific users (col. 4, l. 52-55). The

ratings are applied to the specific users based upon predefined user policies associated with the

unique user name (col. 2, l. 61-63).   Based upon the preset user policies, a filter either allows

return of requested content to the client, or returns a message denying access to the user (col. 6, l.

40-45 & col. 9, l. 52-56). It would have been obvious to one of ordinary skill in the art at the

time that the invention was made to modify Suzuki to include receiving a unique user name with

a request for content, comparing the user name and content request with a set of content rules for

the user, and determining whether to allow or deny access to the content, such as that taught by

McClain et al. in order to ensure that a particular client can only access information that is

authorized (McClain et al. col. 2, l. 36-39).

Referring to claim **2**, the combination of Suzuki and McClain et al. teaches a method as

recited in claim 1, wherein the at least one aggregation module is remote from at least one of the

plurality of receivers (since the buffers are connected to the terminals, the terminals are remote

from the multimedia server)(Suzuki col. 18, l. 1-9, 53-58 & Fig. 20).

Referring to claim **6**, the combination of Suzuki and McClain et al. teaches a method as

recited in claim 1, further comprising delivering the streaming media to each of the plurality of

receivers by a multicast broadcast (the examiner notes that each buffer may support a plurality of

terminals)(Suzuki col. 18, l. 53-58).

3.   Claims **5** and **7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in

view of McClain et al. and further in view of Kuhn.

        Referring to claims **5** and **7**, the combination of Suzuki and McClain et al. teaches a

method as recited in claim 1. The combination of Suzuki and McClain et al. does not

specifically teach selecting a media format. Kuhn discloses transcoding multimedia data into

various media formats (i.e., MPEG)(Paragraphs. 1, 23, & 45). It would have been obvious to

one of ordinary skill in the art at the time that the invention was made to modify the combination

of Suzuki and McClain et al. to include transcoding multimedia data into various media formats,

such as that taught by Kuhn in order to allow a greater variety of receivers to use the system.

4.   Claims **8** and **9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in

view of McClain et al. and further in view of Imajima et al.

        Referring to claims **8** and **9**, the combination of Suzuki and McClain et al. teaches a

method as recited in claim 1. The combination of Suzuki and McClain et al. does not

specifically teach the use of used and unused channels and identifying when to deliver a single

copy of real-time streaming media to the plurality of receivers by at least one of the plurality of

unused channels. Imajima et al. discloses a system for determining whether or not the broadcast

of a video is to be provided in the full video on demand (FVOD) or near video on demand

(NVOD) service, and if there is any available channel for the broadcast (Abstract). A busy state

monitoring mechanism determines the busy level by checking if the number of videos being

provided is equal to or larger than a threshold value n. If the busy level of the VOD server has

exceeded a certain level, then the VOD server is in the busy state, the FVOD service is switched

to the NVOD service and the requested video is broadcast in the NVOD service along an

available channel (col. 14, l. 6-6-11 & col. 16, l. 30-40). When providing a video in the NVOD

service, the NVOD service providing mechanism notifies the set top box (STB) at the subscriber

of the NVOD service starting time and of the receiving channel for the video data (col. 15, l. 63-

67 & col. 16, l. 1). The STB 220 sets the receiving channel to the channel specified according to

the channel information (col. 13, l. 10-13). It would have been obvious to one of ordinary skill

in the art at the time that the invention was made to modify the combination of Suzuki and

McClain et al. to include utilizing multiple used and unused channels, identifying when to

provide a requested video through the unused channels, and switching to the receiving channel

for the video, such as that taught by Imajima et al. in order to provide a VOD service with easy

operation and reduced load on the cable television (CATV) center (Imajima et al. col. 4, l. 10-11,

17-20).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MICHAEL VAN HANDEL whose telephone number is

(571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit
2424

MVH